



Plaintiff respectfully moves this Court for an order striking the Declaration of Richard Martino filed in support of the Defendant's U.S. Bank and Stephanie Buckley, pursuant to FRCP Rule 56 (4), on the grounds that statements made in the declaration are untruthful, misleading and erroneous. Evidence rebutting Mr. Martino's declaration is submitted in declaration of Lawrence James Saccato filed herewith.

Mr. Martino, the Defendant's and Mrs. Donegan are attempting to commit fraud upon the Court with the submission of the declaration of Richard Martino, Doc # 23. Declarant states in Pg. 2, Para #5, "U.S. Bank acquires that information through an "account review inquiry" to credit reporting agencies six times per year for all of its checking account customers." And "An account review inquiry appears on a customer's credit report only when the report is reviewed by the customer". Plaintiff disputes these statements as erroneous, misleading and untruthful. Supporting the Plaintiff's dispute is evidence attached to the Declaration of Lawrence James Saccato with attached exhibits, see exhibit PE A Pg.1-6 that shows clearly the contrary.

Plaintiff also disputes Mr. Martino's statement at Pg. 3. Para. 7, "The inquiry was part of the automated process described above that occurs six times per year for all of U.S. Bank's checking account customers." Plaintiff submits portions of his credit report from Transunion Account Review Inquiries dated from 07/09 thru 11/10 showing none of the "six" alleged annual automated accesses, see exhibit PE A Pg.1-6.

Therefore Plaintiff respectfully moves the Court to strike the declaration of Richard Martino document #23 in total, or in the alternative, strike Para. No. 2 and 7 respectively.

Respectfully submitted,

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